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Westmoreland Suit Data Released

By JOHN CORRY

The libel suit brought against CBS by Gen. William C. Westmoreland has entered a new phase, centering on previously undisclosed documents from the Central Intelligence Agency. Lawyers for CBS say that one of them is "the smoking gun" that would uphold a CBS program that charged General Westmoreland with conspiring to suppress information on enemy troop strength in Vietnam.

In his \$120 million libel suit, General Westmoreland said that the reporters and producers of the program had deliberately ignored information that rebutted the idea of a conspiracy.

What the CBS lawyers referred to as the "smoking gun" is a 1967 memorandum by a C.I.A. official that says that "a variety of circumstantial indicators" had led him to the "inescapable conclusion" that General Westmoreland had given "instruction tantamount to a direct order" to hold the estimate of Vietcong strength to 300,000.

The memo, which was sent to Richard Helms, the Director of the Central Intelligence, was written by George Carver, who was then Mr. Helms's special assistant for Vietnamese affairs.

Mr. Carver, who is now a senior fellow at the Georgetown University Center for Strategic and International Studies, denies, however, that the memorandum is an indictment of General Westmoreland. He says that it "was jerked out of context," and that it was only one of a series of communications between him and Mr. Helms.

The memo was circulated to news organizations on Tuesday by David Boies of the law firm of Cra-

vath, Swain & Moore, which is representing CBS. The firm served a subpoena on the C.I.A. last Dec. 1, requesting, among other things, information on how it arrived at estimates of Vietcong strength. Mr. Boies said he had finally received "a stack of C.I.A. documents" last weekend.

The television program, "The Uncounted Enemy: A Vietnam Deception," was broadcast Jan. 23, 1982. Mike Wallace was the chief correspondent. Three days after the program, Mr. Carver defended General Westmoreland at a news conference. He said then that the C.I.A. and General Westmoreland had disagreed on how to interpret troop estimates, but that there had been "no suppression of evidence."

Dan M. Burt, General Westmoreland's attorney, responding to Mr. Boies's charge of a "smoking gun," noted that other memos by Mr. Carver to Mr. Helms indicated that the C.I.A. and General Westmoreland were in substantial agreement.

The Carver memo that Mr. Boies circulated was sent from Saigon on Sept. 10, 1967. However, a copy of another memo that Mr. Boies received from the C.I.A., this one dated Sept. 13, 1967, said that Mr. Carver had since talked to General Westmoreland in Saigon and that the two appeared to have settled their differences.

"Circle now squared," the memo begins. "We now have agreed set of figures Westmoreland endorses. Mis-

sion seems on verge of successful conclusion."

"Westmoreland most cordial and receptive," the memo continues. "Said he agreed with most of my observations and could see the clear logic behind both sets of figures, which were really not that far apart."

In May 1967, another recently released document said, the C.I.A. estimated that the total strength of the Vietcong "may actually be in the half-million range." That same month, however, General Westmoreland's command had estimated the Vietcong strength at 292,000.

However, the documents also indicate that at least some of the disparity in the two sets of figures may have had to do with interpretation --